IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

WRIT PETITION NO : 9769 of 1994

Between:

1 P.Nagender S/o Shetty
R/o. Bhainsa, Adilabad District.
(2) Md.Fathaur Rahman S/o. Valiur Rahman
R/o. Palsi(village), Kubeer Mandal, Adilabad District.

(W.P. is dismissed as withdrawn insofar as the 2nd petitioner concerned as per

Court Order, dated 07.02.2002 in W.P.No.9769 of 1994)

..... PETITIONERS

AND

1 A.P. State Housing Corporation, Hyderabad Rep by its Managing Director,

2 District Collector & Executive Director, A.P.S.H.C.,
Adilabad.
3 District Manager, A.P. State Housing Corporation,
Adilabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction, particularly a Writ in the nature of Mandamus, declaring the impugned Memo.No.A4/1025/94 dt.3.5.1994 of the 1st Respondent as arbitrary, illegal and consequently direct the respondents to continue the petitioners as Assistant Engineers with all consequential and attendant benefits attached to the post by not giving effect to the Memo.dt.3.5.1994.

Counsel for the Petitioner: DR.P.B.VIJAY KUMAR

Counsel for the Respondents: Mr. V. Ch. Naidu, Standing Counsel for APSHC.

The Court made the following:

O R D E R:

This writ petition is filed with the prayed as follows:

> "*to issue a writ, order or direction, particularly a writ in the nature of Mandamus, declaring the impugned Memo.No.A4/1025/94 dated 03-05-1994 of the first respondent as arbitrary, illegal and consequently direct the respondents to continue the petitioners as Assistant Engineers with all consequential and attendant benefits attached to the post by not giving effect to the Memo dated 03-05-1994.*"

2. The case of the petitioner was that on 26-08-1986 he appointed as a Work Inspector in the respondent-Corporation. Subsequently, by an order dated 20-10-1987, he was posted as Incharge Assistant Engineer. While so, the first respondent through Memo No.A4/1025/94 dated 03-05-1994 informed all the District Managers of the respondent-Corporation not to keep the Work Inspectors as Incharge Assistant Engineers. The relevant portion of the Memo reads as follows:

> "*In view of this we request you to keep the adjacent Assistant Engineer as I/c. Assistant Engineer for the Section instead of keeping the Work Inspector as Incharge Assistant Engineer.*"

3. When the matter is taken for consideration, the learned standing counsel for the respondent-Corporation represented that in view of the order dated 01-10-2004 in W.P.No.25377of 1997 passed by this

Court, nothing survives for adjudication in this writ petition and the cause in the writ petition has come infructuous.

4. The relevant portion of the order dated 01-10-2004 in W.P.No.25377of 1997 is hereunder:

> "*At the time of hearing, it is represented that the Government issued G.O.Rt.No.114 dated 19-04-1999, under which the respondent-Corporation was directed to continue these in-charge Assistant Engineers in the same status drawing their own scales of pay till their turn comes up for consideration of their promotions as Assistant Engineers.*
>
> *As it is stated that an order was passed by the respondent-Corporation in terms of the said G.O., the subject matter in this matter in this writ petition has become infructuous.*
>
> *Hence, the writ petition is dismissed as infructuous. No costs."*

In view of the same, the present writ petition is liable to be dismissed as having become infructuous.

5. The writ petition is accordingly dismissed as having become infructuous. No costs.

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(**J. CHELAMESWAR, J**)

Date:09-10-2004

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To

1 A.P. State Housing Corporation Rep by its Managing Director,
Hyderabad.
2 District Collector & Executive Director, A.P.State Housing Corporation.
Adilabad.
3 District Manager, A.P. State Housing Corporation,
Adilabad.

4 Two CD copies.